

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Fuentes

February 18, 2011

An act to add Section 1714.55 to the Civil Code, relating to personal liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 1074, as amended, Fuentes. Personal liability immunity: telecommunications service providers.

Existing law ~~provides that~~, *the Warren-911-Emergency Assistance Act, requires every local public agency to establish and operate a telephone system that automatically connects a person dialing 9-1-1 to an established public safety answering point through normal telephone service facilities. Under existing law*, a telecommunications service provider is generally liable for any claim, damage, or loss caused by their conduct.

This bill would provide that a provider of telecommunications service, or other service, that is involved in providing 9-1-1 service, as defined, *in accordance with the Warren-911-Emergency Assistance Act* is not liable for any civil claim, damage, or loss caused by an act or omission in the design, development, maintenance, or provision of 9-1-1 service, unless the act or omission that proximately caused the claim, damage, or loss constituted gross negligence, wanton or willful misconduct, or intentional misconduct.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.55 is added to the Civil Code,
2 immediately following 1714.5, to read:
3 1714.55. (a) A retail or wholesale service provider of
4 telecommunications service, or other service, involved in providing
5 9-1-1 service *in accordance with the Warren-911-Emergency*
6 *Assistance Act (Article 6 (commencing with Section 53100) of*
7 *Chapter 1 of Part 1 of Division 2 of Title 5 of the Government*
8 *Code)*, shall not be liable for any civil claim, damage, or loss
9 caused by an act or omission in the design, development,
10 installation, maintenance, or provision of 9-1-1 service, unless the
11 act or omission that proximately caused the claim, damage, or loss
12 constituted gross negligence, wanton or willful misconduct, or
13 intentional misconduct.
14 (b) For purposes of this section:
15 (1) “Public safety agency” means a public safety agency as
16 defined in accordance with the Warren-911-Emergency Assistance
17 Act (Article 6 (commencing with Section 53100) of Chapter 1 of
18 Part 1 of Division 2 of Title 5 of the Government Code).
19 (2) “9-1-1 service” means a telecommunications service, or
20 other wireline or wireless service, that provides to the user of the
21 public telephone system the ability to reach a public safety agency
22 by utilizing the digits 9-1-1 or otherwise facilitates the provision
23 of emergency services pursuant to the Warren-911-Emergency
24 Assistance Act (Article 6 (commencing with Section 53100) of
25 Chapter 1 of Part 1 of Division 2 of Title 5 of the Government
26 Code). “9-1-1 service” includes a 9-1-1 service that utilizes in
27 whole or in part an Internet Protocol.
28 (c) This section shall not apply to services provided under tariff.
29 (d) *This section shall not be construed to modify the liability of*
30 *a manufacturer, distributor, or other person arising from a claim,*
31 *damage, or loss, related to the operation or performance of an*
32 *end-user device that is not related to the provision of 9-1-1 service.*
33 SEC. 2. The Legislature finds and declares that the general
34 public increasingly relies on wireless telephones for their primary
35 means of communication, and that more 9-1-1 calls are now placed

1 on wireless telephones than on traditional landline telephones.
2 People expect to be able to call for help using the technology that
3 they use for their everyday communications. Next Generation
4 9-1-1 (NG 9-1-1), which utilizes Internet Protocol-based
5 communication technology, will improve a 9-1-1 operator's ability
6 to locate a wireless caller who cannot speak or give their location,
7 and make possible future applications that will allow emergency
8 responders to receive text messages, real-time images of the site
9 of an emergency before they arrive on the scene, telemetric data
10 from crash sensors in automobiles even when the injured occupants
11 cannot call 9-1-1, and a wealth of other data that can save lives,
12 including their own. NG 9-1-1 involves service providers beyond
13 the traditional landline telephone companies that have provided
14 9-1-1 service for decades. The Federal—~~Communication~~
15 *Communications* Commission has an open proceeding to adopt
16 the rapid adoption of NG 9-1-1 by the states. It is the intent of the
17 Legislature that state law should be amended to encourage qualified
18 service providers beyond traditional landline telephone companies
19 to develop NG 9-1-1 services, and that California should lead the
20 nation in the deployment of NG 9-1-1.

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